

LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

for June 8, 2005 PLANNING COMMISSION MEETING

PROJECT #: Change of Zone #05036

PROPOSAL: From AG Agriculture to B-5 Planned Regional Business

LOCATION: South 91st Street and Pine Lake Road

LAND AREA: 14.11 acres more or less.

CONCLUSION: This request is associated with four other applications: a comprehensive plan amendment and zoning text change to modify the current Theater Policy to allow theaters with more than six screens when they are more than 6.5 miles from downtown; and a special permit and use permit amendment seeking to locate an 18-screen theater on this site. Staff is recommending denial of all four based upon the finding that such a theater complex is not consistent with the goals of the Comprehensive Plan. Without an acceptable development plan to accompany it, a change of zone for this site is neither necessary nor appropriate.

RECOMMENDATION:	Denial
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GENERAL INFORMATION:

LEGAL DESCRIPTION: See attached legal description.

EXISTING ZONING: AG Agriculture

PROPOSED ZONING: B-5 Planned Regional Business

EXISTING LAND USE: Undeveloped

SURROUNDING LAND USE AND ZONING:

North:	Undeveloped	AG
South:	Commercial	B-5
East:	Undeveloped, Nebraska Heart Hospital	R-3
West:	Undeveloped	B-5

ASSOCIATED APPLICATIONS:

CPA#05014 - A request to amend the Comprehensive Plan by deleting several statements that refer to the Theater Policy and entertainment in the downtown, and by deleting one statement requiring market studies for proposed new theaters outside the downtown.

CZ#05035 - A request to amend Section 27.63.630(c) of the Zoning Ordinance for theaters in the B-5 district to allow theater complexes consisting of more than six screens provided it is located outside a 6.5 mile radius measured from the center of the intersection of 13th and O Streets.

SP#05023 - To allow an 80,000 square foot, 18-screen theater megaplex on approximately 24.52 acres near the intersection of South 91st Street and Pine Lake Road.

UP#140B - To amend the Appian Way use permit covering the Prairie Lakes regional shopping center to include an additional 14.11 acres and the theater megaplex.

HISTORY:

November 5, 2001 - ANN#01006 annexing 245 acres into the City of Lincoln, CZ#3320 changing the zoning on 98.8 acres east of relocated South 91st Street from AG to R-3, CZ#3285 changing the zoning on 146.3 acres between South 84th and relocated South 91st Street north of Highway 2 from AG to B-5, and UP#140 for 825,400 square feet of commercial space, with the option to expand to 940,000 square feet provided that the total p.m. peak hour trips does not exceed 2,925 for Appian Way regional center were all approved.

September 28, 2001 - PP#01006 for Appian Way Regional Center for 28 commercial lots and 8 outlots.

COMPREHENSIVE PLAN SPECIFICATIONS:

Appendix A - Southeast Lincoln/Highway 2 Subarea Plan

Page 6 - Vision for the Southeast Lincoln/ Highway 2 Subarea - Provide Effective land use transitions; provide appropriate transitions from commercial to residential land uses. Within commercial areas, office and lower intensity commercial uses along with appropriate buffer areas should be developed as a transition to adjacent residential areas. In some areas, special residential" uses should be provided to adjacent lower density residential uses. Special residential uses could include churches, domiciliary care facilities, retirement apartments, child care facilities or townhomes. In more urban settings, which are further from existing single family residences, apartments may also be appropriate as a special residential uses.

Page 7 - Figure 2 - The subarea plan designates commercial land uses for this site.

Page 9 - Clarify the appropriate size and type of uses in the Center at 84th & Highway 2: this subarea plan designates the area from approximately 91st to 98th for predominately residential use, while including a 44 acre tract for a mix of commercial uses at the northeast corner of 91st and Highway 2. The overall site includes a regional center with approximately 1.9 million SF of commercial space -- larger than the present Westfield shopping center. The plan encourages the planned center at 84th and Highway 2 to develop with a mix of uses, including residential and appropriate transitions to existing residential areas.

UTILITIES: All utilities are available to serve this area.

ANALYSIS:

1. This request is associated with CPA#05014, CZ#05035, SP#05023, and UP#140B, which all relate to developing an 18-screen theater at Prairie Lakes Shopping Center. The site is zoned AG, and must be re-zoned to be developed commercially.
2. Staff is recommending denial of the four associated applications. The recommendation is based on a finding that siting an 18-screen theater at Prairie Lakes would significantly reduce attendance at downtown theaters, threatening their vitality, which in turn would have detrimental impacts on other existing downtown businesses and damage the City's efforts to revitalize the downtown and maintain its position as the heart of the community. All these impacts are contrary to longstanding goals in the Comprehensive Plan.
3. Without a development plan for the site, a change of zone is not necessary.

Prepared by:

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May 18, 2005

**APPLICANT/
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**APPIAN WAY REGIONAL CENTER
LEGAL DESCRIPTION
FOR AG TO B-5 ZONING CHANGE, LOT 92 IT**

A TRACT OF LAND COMPOSED OF A PART OF LOT 92, IRREGULAR TRACT, LOCATED IN THE NORTHWEST QUARTER OF SECTION 23, TOWNSHIP 9 NORTH, RANGE 7 EAST OF THE SIXTH PRINCIPAL MERIDIAN, CITY OF LINCOLN, LANCASTER COUNTY, NEBRASKA, DESCRIBED AS FOLLOWS:

REFERRING TO THE NORTHWEST CORNER OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 23, TOWNSHIP 9 NORTH, RANGE 7 EAST OF THE 6TH P.M., THENCE S 00°14'06" E, ASSUMED BEARING, ALONG THE WESTERLY LINE OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 23, A DISTANCE OF 83.35 FEET TO THE NORTHWEST CORNER OF SAID LOT 92 IT; THENCE S 87°48'19" E, ALONG THE SOUTHERLY RIGHT OF WAY LINE OF PINE LAKE ROAD, A DISTANCE OF 55.50 FEET TO A CORNER OF SAID LOT 92 LOCATED 85.00 FEET SOUTHERLY OF, PERPENDICULAR MEASUREMENT, THE NORTHERLY LINE OF THE NORTHWEST QUARTER OF SAID SECTION 23; THENCE N 88°33'57" E, ALONG THE SOUTHERLY RIGHT OF WAY LINE OF PINE LAKE ROAD, A DISTANCE OF 1,041.94 FEET TO THE POINT OF CURVATURE OF A 316.85 FOOT RADIUS CURVE, CONCAVE TO THE SOUTHWEST; THENCE SOUTHEASTERLY, ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 51°13'40", AN ARC DISTANCE OF 283.29 FEET, THE CHORD OF SAID CURVE BEARS S 45°02'29" E, A DISTANCE OF 273.95 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTHEASTERLY, ALONG SAID 316.85 FOOT RADIUS CURVE, THROUGH A CENTRAL ANGLE OF 00°47'05", AN ARC DISTANCE OF 4.34 FEET, THE CHORD OF SAID CURVE BEARS S 19°02'06" E, A DISTANCE OF 4.34 FEET; THENCE S 00°12'40" W, ALONG A LINE 50.00 FEET WESTERLY OF, PERPENDICULAR MEASUREMENT, THE EASTERLY LINE OF THE NORTHWEST QUARTER OF SAID SECTION 23, A DISTANCE OF 154.25 FEET TO A CORNER OF SAID LOT 92; THENCE S 89°47'20" E, A DISTANCE OF 17.00 FEET TO A CORNER OF SAID LOT 92; THENCE S 00°12'40" W, ALONG A LINE 33.00 FEET WESTERLY OF, PERPENDICULAR MEASUREMENT, THE EASTERLY LINE OF THE NORTHWEST QUARTER OF SAID SECTION 23, A DISTANCE OF 915.06 FEET TO A POINT ON THE SOUTHERLY LINE OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 23; THENCE N 89°41'38" W, ALONG THE SOUTHERLY LINE OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 23, A DISTANCE OF 141.78 FEET TO A POINT ON THE NORTHERLY LINE OF OUTLOT N, APPIAN WAY ADDITION AND THE POINT OF CURVATURE OF A 264.00 FOOT RADIUS CURVE, CONCAVE TO THE NORTHEAST; THENCE NORTHWESTERLY, ALONG SAID CURVE AND THE NORTHERLY LINE OF SAID OUTLOT N, THROUGH A CENTRAL ANGLE OF 05°47'40", AN ARC DISTANCE OF 26.70 FEET, THE CHORD OF SAID CURVE BEARS N 56°56'22" W, A DISTANCE OF 26.69 FEET; THENCE N 54°02'32" W, ALONG THE NORTHERLY LINE OF SAID OUTLOT N, A DISTANCE OF 353.89 FEET TO THE POINT OF CURVATURE OF A 264.00 FOOT RADIUS CURVE, CONCAVE TO THE NORTHEAST; THENCE NORTHERLY, ALONG SAID CURVE AND THE EASTERLY LINE OF SAID OUTLOT N, THROUGH A CENTRAL ANGLE OF 54°12'52", AN ARC DISTANCE OF 249.80 FEET, THE CHORD OF SAID CURVE BEARS N 26°56'06" W, A DISTANCE OF 240.59 FEET; THENCE N 00°10'20" E, ALONG THE EASTERLY LINE OF SAID OUTLOT N, A DISTANCE OF 51.04 FEET; THENCE S 90°00'00" W, ALONG THE NORTHERLY LINE OF SAID OUTLOT N, A DISTANCE OF 72.00 FEET; THENCE N 00°10'20" E, A DISTANCE OF 587.53 FEET; THENCE S 89°47'55" E, A DISTANCE OF 594.74 FEET TO THE POINT OF CURVATURE OF A 386.00 FOOT RADIUS CURVE, CONCAVE TO THE SOUTH; THENCE EASTERLY, ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 03°02'15", AN ARC DISTANCE OF 20.46 FEET, THE CHORD OF SAID CURVE BEARS S 88°16'48" E, A DISTANCE OF 20.46 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED TRACT CONTAINS AN AREA OF 576,938.70 SQUARE FEET, 13.24 ACRES.

**APPIAN WAY REGIONAL CENTER
LEGAL DESCRIPTION
FOR AG TO B-5 ZONING CHANGE, OUTLOT O**

A TRACT OF LAND COMPOSED OF A PART OF OUTLOT O, APPIAN WAY ADDITION, LOCATED IN THE NORTHWEST QUARTER OF SECTION 23, TOWNSHIP 9 NORTH, RANGE 7 EAST OF THE SIXTH PRINCIPAL MERIDIAN, CITY OF LINCOLN, LANCASTER COUNTY, NEBRASKA, DESCRIBED AS FOLLOWS:

REFERRING TO THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 23, TOWNSHIP 9 NORTH, RANGE 7 EAST OF THE 6TH P.M., THENCE S 00°12'40" W, ASSUMED BEARING, ALONG THE EASTERLY LINE OF THE NORTHWEST QUARTER OF SAID SECTION 23, A DISTANCE OF 247.86 FEET TO THE **POINT OF BEGINNING**; THENCE CONTINUING S 00°12'40" W, ALONG THE EASTERLY LINE OF THE NORTHWEST QUARTER OF SAID SECTION 23, A DISTANCE OF 1,067.25 FEET TO A POINT ON THE SOUTHERLY LINE OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 23; THENCE N 89°41'38" W, ALONG THE SOUTHERLY LINE OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 23, A DISTANCE OF 33.00 FEET TO A POINT ON THE WESTERLY LINE OF SAID OUTLOT O; THENCE N 00°12'40" E, ALONG THE WESTERLY LINE OF SAID OUTLOT O, A DISTANCE OF 915.06 FEET TO A CORNER OF SAID OUTLOT O; THENCE N 89°47'20" W, A DISTANCE OF 17.00 FEET TO A CORNER OF SAID OUTLOT O; THENCE N 00°12'40" E, ALONG THE WESTERLY LINE OF SAID OUTLOT O, A DISTANCE OF 154.25 FEET TO A CORNER OF SAID OUTLOT O AND THE POINT OF CURVATURE OF A 316.85 FOOT RADIUS CURVE, CONCAVE TO THE SOUTHWEST; THENCE NORTHERLY, ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 00°47'05", AN ARC DISTANCE OF 4.34 FEET, THE CHORD OF SAID CURVE BEARS N 19°02'06" W, A DISTANCE OF 4.34 FEET TO THE POINT OF CURVATURE OF A 386.00 FOOT RADIUS CURVE, CONCAVE TO THE SOUTH; THENCE EASTERLY, ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 07°41'43", AN ARC DISTANCE OF 51.84 FEET, THE CHORD OF SAID CURVE BEARS S 82°54'49" E, A DISTANCE OF 51.80 FEET TO THE **POINT OF BEGINNING**.

THE ABOVE DESCRIBED TRACT CONTAINS AN AREA OF 37,988.44 SQUARE FEET, 0.87 ACRES.